IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3243 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE KSHITIJ R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BALVANTRAI TRAMBAKARAM BHATT

Versus

RAJKOT KELAVANI MANDAL

Appearance:

1. Special Civil Application No. 3243 of 1987

NOTICE SERVED for Petitioner

MR JJ YAJNIK for Respondent No. 1

MR RM CHAUHAN, ld.AGP for Respondent No. 2

CORAM : MR.JUSTICE KSHITIJ R.VYAS

Date of decision: 20/06/2002

ORAL JUDGEMENT

The petitioner in this petition has challenged the order of suspension dated 28th May 1986 (Annexure.A)

passed by the Rajkot Kelavani Mandal, Rajkot (first respondent herein) which is confirmed by an order dated 13.6.1986 (Annexure.C) passed by the District Education Officer (second respondent herein) and the order dated 22nd April 1987 (Annexure.D) passed by the Gujarat Secondary Education Tribunal, Ahmedabad, in Application No.195 of 1986.

2. The petitioner, at the relevant time, was serving as the Principal of Shri Kotak Kanya Vinay Mandir, Rajkot, run by the first respondent. It appears that while performing duty as the Principal, the petitioner committed financial irregularities and, therefore, an order of suspension came to be passed against the petitioner and, therefore, the chargesheet vide Annexure.B also came to be issued. Under the provisions of the Gujarat Secondary Education Act, 1972, a prior approval of the District Education Officer is required and therefore, the respondent no.1 sought approval of the respondent no.2 vide letter dated 28th May 1986. The respondent no.2, after hearing the parties, granted approval vide his order dated 13.6.1986 by observing that the respondent Management has made out a prima facie case for holding inquiry and to put the petitioner under suspension. As stated above, the petitioner has challenged the order of suspension and the order passed by the District Education Officer before the Tribunal. The Tribunal, by its order dated 22nd April 1987 rejected the application of the petitioner mainly on the ground that the suspension is ratified by the District Education Officer, and that the suspension is continuing and during the suspension till the completion of the inquiry the applicant will be paid the full regular salaries.

3. The petition was originally filed through learned Advocate Shri C.K.Thakker. On his elevation as Judge of this Court, the office issued usual notice to the petitioner which is duly served on him. However, he has chosen not to engage any other Advocate. At the time of hearing of this petition, the petitioner has not remained present. It is reasonable to infer that because of passage of time, the dispute between the parties must have settled and therefore, the petitioner has chosen not to engage a lawyer or to appear in person.

On merits also, there is hardly any ground for this Court to interfere in the matter of suspension. The Tribunal, in my opinion, has rightly disposed of the application of the petitioner by observing that the suspension is ratified by the D.E.O. who prima facie found a case for suspension against the petitioner and

that the management has agreed to pay the full salaries till the enquiry is over against the petitioner. Not only that, the Tribunal has directed the petitioner to co-operate with the inquiry proceedings by directing him to remain present when the inquiry Committee calls him and if he does not remain present, it will be open to the inquiry Committee to proceed in his absence and pass appropriate orders. Since more than 15 years have been elapsed after the order of the Tribunal, one can safely conclude that by this time the inquiry must have come to an end.

4. I have gone through the averments made in the petition. The averments mainly relate to his innocence against the allegation made in the chargesheet. Since the same is required to be gone into in the inquiry, I do not think it necessary to decide the same in the present petition.

5. In the result, I see no merit in this petition. The same is hereby rejected. Rule is discharged. There shall be no order as to costs.

(Kshitij R. Vyas, J.)

Sreeram.